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Paper No. 8

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OFFICE OF PETITIONS

In re Application of
Neter et al.
Application No. 09/996,991
Filed: November 30, 2001
Attorney Docket No. 213201.00137

DECISION GRANTING
PETITION

This is a decision on the renewed petition filed August 27, 2002, to establish that pages 8 and 9 of the specification were part of the originally filed application.

The petition under 37 CFR 1.53 is **granted**.

On November 30, 2001, the application was filed.

On December 28, 2001, the Office of Initial Patent Examination mailed a Notice stating that the application had been accorded a filing date of November 30, 2001, and advising applicants that pages 8 and 9 of the specification appeared to have been omitted.

In response, a petition was filed alleging that pages 8 and 9 were deposited on November 30, 2001. In support, petitioner submitted a postcard receipt which acknowledges receipt of "Specification (including claims & abstract) (71 pp)" on November 30, 2001.¹ Petitioner also submitted a copy of the missing documentation- pages 8 and 9 of the specification.

Upon a review of the record, pages 8 and 9, deposited on November 30, 2001, were not located. However, the evidence was convincing that the application papers deposited on November 30, 2001, included pages 8 and 9, and that the pages were subsequently misplaced in the PTO.

The petition was dismissed because the copies of pages 8 and 9 submitted on February 25, 2002, were partially illegible.

Petitioner has submitted a legible copy of pages 8 and 9.

No petition fee is required and none has been charged.

The Notice mailed December 28, 2001, was sent in error and is hereby vacated.

¹ Evidence of receipt of any correspondence filed in the Patent and Trademark Office can be obtained by submitting a self addressed post card properly itemizing and identifying the paper or papers being filed. Upon receipt of the correspondence, the Patent and Trademark Office will check the listing on the post card against the papers submitted, making sure that all items listed are present and will then stamp the postcard with an Official date stamp and place the post card in the outgoing mail. "A post card receipt which itemizes and properly identifies the papers which are being filed serves as *prima facie* evidence of receipt in the PTO of all items listed thereon by the PTO." M.P.E.P. § 503.

The Application is being returned to the Office of Initial Patent Examination for further processing with a filing date of November 30, 2001, using the application papers filed on November 30, 2001, and the copy of pages 8 and 9 of the specification filed on August 27, 2002.

Telephone inquiries should be directed to Petitions Attorney Steven Brantley at (703) 306-5683.



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